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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3877 OF 2006

Chandrakant Shivputra
Guravngol and Ors. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.A.P.Mundargi, Senior Advocate with Indrajeet Joshi for applicants

Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 21st November 2006

P.C.

. Heard Mr.Mundargi, learned Senior Counsel

for applicants - original accused and Mr.Pol, A.P.P. for State.

2. Applicants have been arrested in connection with C.R.No.66 of 2006 registered with Gadhinglaj police station for offences punishable under section 302 read with 34 I.P.C.

3. I have perused the copies of statements of complainant so also cousin brother of the deceased Bapu Yallappa with the assistance of Mr.Mundargi. It is contended that the deceased so also the said Bapu had in the past abused the applicants on account of their caste and faced prosecution in which the deceased as also said Bapu were acquitted.

4. On the date of incident, the deceased under influence of liquor had abused the applicants, one of whom serves as a waiter in the local bar and restaurant, once again on account of their caste. The incident was reported to

Bapu and the said Bapu had assured the applicants that apology would be tendered. However, once again the deceased repeated the act in the bar and that is how incident took place.

5. In the backdrop of the earlier prosecution and the ongoing dispute between the deceased and the applicants, the submission of Mr.Mundargi is that the applicants had no intention to kill deceased and the incident took place because of abuses being hurled at the applicants referring to their caste. The incident involved fist fight and there are no weapons. Even the nature of injuries would reveal that they are not caused by any hard and blunt weapon but as a result of fist blows. Mr.Mundargi submits that the entire incident must be viewed in the backdrop of the earlier prosecution and the incident when the applicants were abused by the deceased.

6. Learned A.P.P. invites my attention to

the fact that the applicants and deceased were involved in earlier prosecution but on the date of incident applicants decided to teach a lesson to the deceased and took law in their hands. Even the witnesses are threatened and in such circumstances so also the offences alleged being serious and grave in nature, application be rejected.

7. After perusing the statements, there is prima facie substance in the contention of Mr.Mundargi. The incident cannot be seen isolated from the earlier prosecution under the Atrocities Act. The incident was a fall out of repeated abuses hurled at the applicants by the deceased. The deceased having been habituated to drinks and hurling abuses, the incident has taken place. That apart, it is not shown to me as to how with stringent conditions being imposed, apprehension of prosecution cannot be taken care of. Now, the investigations are complete and charge sheet is filed. Hence, following order:-

i) The applicants (1) Chandrakant Shivputra Gurvangol, (2) Parshuram s/o. Malutai Khanapure, (3) Sanjay Shivrudra Labyagol and (4) Vikram Rama Katty arrested in connection with C.R.No.66 of 2006 registered with Gadhinglaj Police Station shall be enlarged on bail in the sum of Rs.5,000/- each with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicants will remain present before the concerned investigating officer of Gadhinglaj police station once a week on every Saturday between 5.00 p.m. and 7.00 p.m. till conclusion of the trial. Applicants shall also not enter village Halkarni till then.

iii) The order of bail will be given

effect only after the applicants furnish to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicants will not change their residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to condition that the applicants shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicants shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of

bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)